IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 25TH JUNE 2007 / 4TH ASHADHA 1929

Crl.MC.No. 1742 of 2007()

CRL.M.P.NO.329/2007 OF SESSIONS COURT, ALAPPUZHA
CRIME NO.227/2005 OF MARARIKKULAM POLICE STATION

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PETITIONER:

SAJU @ MRUGAM SAJU, AGED 29,
S/O.RAJAPPAN, KALATHIKKARA VEEDU,
WARD NO.VII, PALLIPPURAM PANCHAYAT, CHERAI P.O.,
ERNAKULAM DISTRICT.
(PRESENTLY RESIDING WITHIN THE LIMITS OF
ALAPPUZHA).

BY ADV. SRI.B.RAMAN PILLAI
SRI.R.ANIL
SRI.RAJU RADHAKRISHNAN
SRI.ANIL K.MOHAMMED

RESPONDENTS: COMPLAINANT

STATE OF KERALA, REP.BY
THE SPECIAL PUBLIC PROSECUTOR.

BY ADDL.DGP SRI.V.K.MOHANAN

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 25/06/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J.

Crl.M.C.No.1742 of 2007

Dated this the 25th day of June 2007

O R D E R

The petitioner is the third accused in the ill famous Kanichukulangara case. The petitioner was released on bail by the learned Sessions Judge. The order granting bail was challenged before this court and by Annexure A2 order dated 21/03/2007 this court refused to interfere with the order granting bail but felt that appropriate conditions must be imposed to ensure that the stream of justice is not polluted. Accordingly, conditions were imposed that the petitioner shall not leave the jurisdiction of the J.F.C.M Alappuzha until further orders. Further conditions were imposed about the requirement of the petitioner reporting before the investigating officer . The learned counsel for the petitioner submits that the said conditions are remaining in force from 21/3/2007. One attempt made by the petitioner to get the said conditions modified did not succeed and that prayer was rejected by order dated 12/4/2007. At least now, this court may be pleased to modify the conditions and permit the petitioner to go to his native place. The learned counsel for the petitioner submits that the mobility of no other accused is fettered by the imposition of any such

condition. In these circumstances, the learned counsel prays that a lenient view may be taken and the conditions may be modified, if not deleted.

2. The learned Public Prosecutor opposes the application most vehemently. The learned Public Prosecutor submits that the order granting bail to the petitioner as also the subsequent order passed by this court, are being challenged before the Supreme Court and the challenge is pending even now. The bail granted to some other co-accused has also been challenged before the Supreme Court. In these circumstances, the learned Public Prosecutor submits that there is no change in circumstances justifying or warranting the modification or deletion of the conditions imposed. The learned Public Prosecutor submits that the investigation is completed and final report has been filed but for reasons not attributable to the prosecution, trial has not commenced.

3. This court is disturbed to note that the trial in this case has not commenced in spite of earlier directions issued. Reports were called for from the learned Magistrate/Committal court and the Trial Court/Sessions Court. The reports reveal that altogether there are 13 accused persons in the crime. All

accused, except accused 6 and 11 to 13 were committed to the court of Session long back. The sixth accused has also been now committed to the court of Session. Cognizance has been taken by the learned Sessions Judge of the case against the sixth accused also, by now. There are three more accused alleged as accused 11 to 13. They were arrayed as accused only after the arrest of the sixth accused. Accused 11 and 12 have already surrendered before the Magistrate. They have been enlarged on bail. The thirteenth accused is absconding. Proceedings against him are pending. The learned Magistrate has taken the view that it is not strictly necessary to commit the case against accused 11 to 13 and that the learned Magistrate can take cognizance of the case and proceed against the case as a calender case. C.C.No.214/2007 has been registered. The learned Public Prosecutor submits that the registration of the C.C is not justified and that, at any rate, the case against A11 to A13 also deserves to be committed to the court of Session, at least under Section 323 Cr.P.C. The learned Magistrate in the report also submits that the case can be committed under Section 323 Cr.P.C.

4. The facts of the case reveal that it will be in the interests of due and proper administration of justice that such a case which has left scars in the public mind is taken up for trial and disposed of as expeditiously as possible. In the interests of the petitioner against whom stringent conditions remain in force also, such expeditious disposal is absolutely necessary. I am, in these circumstances, satisfied that appropriate directions can and ought to be issued to the learned Judicial First Class Magistrate Court-I, Alappuzha and the learned Sessions Judge, Alappuzha to ensure that the case against all the available accused, that is, A1 to A12 are taken up and disposed of as expeditiously as possible. The learned Judicial First Class Magistrate Court-I, Alappuzha shall forthwith commit the case in so far as it relates to A11 and A12 under Section 323 Cr.P.C to the court of Session. Such committal shall be made as expeditiously as possible, at any rate, within fifteen days from the date of receipt of a copy of this order. The case against the absconding accused A13 can be split up straight away. S.82 and 83 proceedings A13 can be continued and the same if necessary can be transferred to the list of long pending cases. The committal of the case against A11 and A12 need not wait any

longer. The learned Principal Sessions Judge shall also ensure that the case against A1 to A12 are consolidated and the trial proper is commenced as expeditiously as possible, at any rate, within a period of two months from this date. Compliance shall be reported to this court forthwith.

5. This Criminal Miscellaneous Case is, in these circumstances, dismissed with the above observations.

6. Hand over copy of this order to the learned Prosecutor for immediate production before the learned Magistrate and learned Sessions Judge. The registry shall send copies to both of them forthwith and shall communicate the directions over the telephone to ensure expedition.

(R.BASANT, JUDGE)

jsr

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007